



Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
600 Washington Street
Boston, MA 02111
www.mass.gov/masshealth



Eligibility Operations Memo 07-14
September 1, 2007

TO: MassHealth Eligibility Operations Staff

FROM: Russ Kulp, Director, MassHealth Operations

RE: **Clarifications about Transfers into or from Trusts, Personal Care Contracts, Private Annuities, or Promissory Notes and New Process for Tracking Annuities**

Introduction

Due to clarifications made by Centers for Medicare & Medicaid Services (CMS), revisions are being made to the MassHealth regulations about trust look-back periods. These changes include the length of the look-back period and the process that will be used to review and verify the trusts.

Changes to the MassHealth Regulations

Due to provisions in the federal Deficit Reduction Act of 2005, the 36-month look-back period described at 130 CMR 520.023 is eliminated. The look-back period for all trusts is now 60 months. This revision to the look-back period will be phased in beginning on February 8, 2009.

Changes to the regulations include language that describes how the 60-month look-back period will be phased in for transfers into certain trusts and all other transfers for less than fair-market value. Beginning on March 8, 2009, applicants for MassHealth will be asked to provide verifications of their assets for the 37 months before the application date. As each month passes, the look-back period will increase by one month, until the full 60 months is reached on February 8, 2011.

Language has been added to clarify rules about future payments or services. Any transaction that involves future payments or services will be considered a disqualifying transfer of assets to the extent that the transaction does not have an ascertainable fair-market value.

In addition, a clarification of the Deficit Reduction Act of 2005 requires a change in the language at 130 CMR 520.007(J)(2)(a)(i) from "annuitant" to "institutionalized individual."

(continued on next page)

**New Process for
Filing and
Tracking
Annuities**

When processing a long-term-care application or review that includes an annuity established on or after February 8, 2007, please follow the steps below.

Review the annuity to see if it:

- is actuarially sound, according the Social Security Administration (SSA) tables at ssa.gov/OACT/STATS/table4c6.html;
- has equal payments;
- is irrevocable;
- is non-assignable; and
- has no deferral or balloon payments.

If the annuity meets all of the requirements described above, complete the Notice of Preferred Remainder Beneficiary (ANN-2) form, and list either the issuing company or the private annuity owner. Also list any preferred beneficiaries, such as a spouse, disabled child, or minor child.

Send the form to the Policy Implementation Unit at MassHealth Operations, ATTN: Annuity Tracking, 600 Washington Street, Boston, MA 02111.

Staff at MassHealth Operations will log in the annuity and send the completed ANN-2 to either the issuing company or the private annuity owner. If there is a preferred beneficiary, the Commonwealth of Massachusetts will be named in the second position. If there is not a preferred beneficiary, the Commonwealth of Massachusetts will be named in the first position.

MassHealth Operations staff will complete the Annuity Tracking Form (ANN-1) and send it to the Lifetime Lien Unit in Worcester.

If MassHealth Enrollment Center staff have questions about any commercial annuity, they should send the annuity to Legal for review.

**Private Annuities,
Promissory Notes,
and Personal Care
Contracts**

All non-commercial annuities, private promissory notes, and personal lifetime-care contracts must be sent to Legal for review before determining eligibility for long-term-care benefits.

Attachment

Attached to this memo is the revised Notice of Preferred Remainder Beneficiary (ANN-2).

Questions

If you have any questions about this memo, please have your MEC designee contact the Policy Hotline.



Commonwealth of Massachusetts
Executive Office of Health and Human Services
www.mass.gov/masshealth

MassHealth Enrollment Center

Address:

City/Town/Zip:

Date:

Notice of Preferred Remainder Beneficiary

Applicant name

Social security number

Name of issuing company

Address

City/Town/Zip

The Commonwealth of Massachusetts Executive Office of Health and Human Services has determined that, pursuant to regulations at 130 CMR 520.007(J) and federal law at 42 USC §1396p(e), the Commonwealth of Massachusetts must be named a remainder beneficiary upon the death of the MassHealth applicant or MassHealth member, or spouse of the applicant or member, named below. If the Commonwealth of Massachusetts is not named as a beneficiary as explained below, the applicant's or member's eligibility for MassHealth benefits will be delayed or denied.

Name of purchaser

Account number

Issuer name/Telephone number

The Commonwealth of Massachusetts must be named a remainder beneficiary for the total amount of medical assistance paid on behalf of the institutionalized individual in the

- ☐ first position (if there is no community spouse or minor or disabled child), or
- ☐ second position (following the community spouse or minor or disabled child) that will change to the first position if the community spouse or the representative of any minor or disabled child disposes of any remainder for less than fair-market value.

The issuer of the annuity described here must also notify the MassHealth Enrollment Center named above if there is a change in the amount of income or principal being withdrawn.

Upon adding the Commonwealth of Massachusetts as a remainder beneficiary, the issuer must furnish documentation to the MassHealth Enrollment Center named above and to the Lifetime Lien Unit.

Lifetime Lien Unit
P.O. Box 15205
Worcester, MA 01615-0205
1-800-754-1864

Eligibility worker

Telephone number

Signature of Applicant or Authorized Representative

Signature of Applicant

Date

Signature of Authorized Representative

Date